

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Joan B. Gottschall	Sitting Judge if Other than Assigned Judge	Martin C. Ashman
CASE NUMBER	03 C 7249	DATE	7/6/2004
CASE TITLE	Dawn L. Behrens vs. Silliker Laboratories, Inc.		

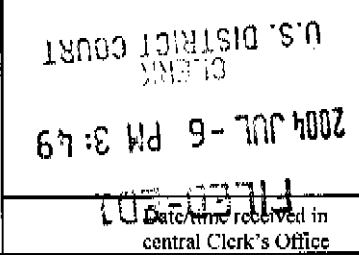
[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

DOCKET ENTRY:

- (1) ☐ Filed motion of [use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due _____.
- (3) ☐ Answer brief to motion due _____. Reply to answer brief due _____.
- (4) ☐ Ruling/Hearing on _____ set for _____ at _____.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) ☐ Trial[set for/re-set for] on _____ at _____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ Local Rule 41.1 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] Report and recommendation recommending that plaintiff's case be dismissed with prejudice for want of prosecution and that defendant's counterclaim be dismissed with prejudice is hereby entered of record. All matters relating to the referral of this action having been resolved, the case is returned to the assigned judge.

- (11) ☒ [For further detail see order attached to the original minute order.]

<input type="checkbox"/>	No notices required, advised in open court.		3	Document Number 12
<input type="checkbox"/>	No notices required.		number of notices	
<input checked="" type="checkbox"/>	Notices mailed by judge's staff.		JUL 07 2004	
<input type="checkbox"/>	Notified counsel by telephone.		date docketed	
<input type="checkbox"/>	Docketing to mail notices.		APZ	
<input type="checkbox"/>	Mail AO 450 form.		docketing deputy initials	
<input checked="" type="checkbox"/>	Copy to judge/magistrate judge	7/6/2004	date mailed notice	
IS	courtroom deputy's initials	IS	mailing deputy initials	

DOCKETED
JUL 07 2004

Defendant.

Martin C. Ashman

Under Federal Rule of Civil Procedure 41, the court may dismiss an action for failure of the plaintiff to prosecute or to comply with the rules or the court's orders. Dismissal of a case "is one of the tools available to district courts 'to achieve the orderly and expeditious disposition of cases.'" *Williams v. Chic. Bd. of Educ.*, 155 F.3d 853, 857 (7th Cir. 1998) (*quoting Link v. Wabash R.R. Co.*, 370 U.S. 626, 630 (1962)). However, because dismissal is such a harsh sanction, it "should be used 'only in extreme situations, when there is a clear record of delay or contumacious conduct, or when other less drastic sanctions have proven unavailing.'" *Id.* (*quoting Dunphy v. McKee*, 134 F.3d 1297, 1299 (7th Cir. 1998) (citations omitted)).

Plaintiff's actions cause us to reach the conclusion that this case should be dismissed for failure to prosecute. Plaintiff has failed to answer discovery as required, even after this Court entered an order that she must respond to the discovery. Plaintiff was warned that a failure to respond would result in the dismissal of the case. Plaintiff has delayed and directly disregarded this Court's order and has failed to attend status hearings. She has, by these omissions, indicated her disinterest in her case.

Therefore, for the reasons discussed above, we recommend that Plaintiff's case be dismissed with prejudice for want of prosecution. Additionally, we recommend that Defendant's counterclaim be dismissed with prejudice.


MARTIN C. ASHMAN
United States Magistrate Judge

Dated: July 6, 2004.

Written objections to any finding of fact, conclusion of law, or the recommendation for disposition of this matter must be filed with the Honorable Joan B. Gottschall within ten (10) days after service of this Report and Recommendation. *See* Fed. R. Civ. P. 72(b). Failure to object will constitute a waiver of objections on appeal.

Copies have been mailed to:

STEPHEN R. AYRES, Esq.
Bellande, Cheely, O'Flaherty, Sargis
& Ayres
19 South LaSalle Street
Suite 1203
Chicago, IL 60603

Attorney for Plaintiff

REX L. SESSIONS, Esq.
KEVIN M. CLOUTIER, Esq.
Winston & Strawn, L.L.P.
35 West Wacker Drive
Chicago, IL 60601

Attorneys for Defendant